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February 6,, 2024

Hon. Frederic Block  
United State District Court, EDNY  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: *Jane Doe v. Mark Waltzer***  
**21 CV 4332 (FB) (RML)**

Your Honor-

Please see the attached proposed updates for the following:

**JURY INSTRUCTIONS:**

1. III. Damages - Compensatory Damages - PAGE 15, LINE 14 - "Plaintiffs" referenced instead of "Plaintiff".
2. III. Damages - PAGE 13, LINE 7 - "Defendants" referenced instead of "Defendant". Same on PAGE 16, LINE 6; PAGE 16, LINE 8; PAGE 16, LINE 9.
3. II. The Claims - PAGE 11, LINE 8 - "So, if you find that Plaintiff has proved, by a preponderance of the evidence, that she had sex with Defendant before her seventeenth birthday...". We respectfully request that this be changed to "So, if you find that Plaintiff has proved, by a preponderance of the evidence, that the Defendant had sex with her before her seventeenth birthday..."
4. III. Damages - PAGE 13, LINE 15. We respectfully request that it is made clearer to the Jury that they can award punitive damages for both emotional distress that Plaintiff suffered during the period immediately after the underlying conduct **and** the emotional

distress that she suffers with to this day. The way it is worded currently may suggest to the Jury that it can only be awarded for the former.

5. III. Damages - “You may consider an award of punitive damages based on the conduct of each person you have found liable for a constitutional violation.” We don’t believe “constitutional violation” is the correct term to encompass the three causes of action.

### **JURY VERDICT SHEET**

We respectfully ask the Court to incorporate Plaintiff’s Proposed Verdict Sheet filed under ECF Document 181 as we believe it more clearly defines to the Jury the causes of action of forcible rape and statutory rape.

### **RESPONSE TO DEFENDANT’S REQUEST TO IDENTIFY DAMAGES THE JURY ASSIGNS TO AN IMPACT ON PLAINTIFF’S HIGH SCHOOL EDUCATION**

Defendant states that he would be entitled for any overlapping damages paid by the settlement with the Department of Education. However, there is no cause of action in common with the Department of Education as the New York City Human Rights claim against the Defendant was withdrawn and therefore there should be no offset in relation to that cause of action. In any case, the settlement with the city was not specifically earmarked for damages inflicted by Waltzer or any other party (such as Douglas Meiners or the custodian), therefore it would be impossible to quantify which part of the damages would be offset for the Defendant.

Thank you for your consideration.

Sincerely,

/s/  
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